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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/778,860	02/08/2001	Mitsuru Iwasaki	040679-1209	6172

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FOLEY & LARDNER
Washington Harbour
Suite 500
3000 K Street N. W.
Washington, DC 20007-5109

EXAMINER

ATKINSON, CHRISTOPHER MARK

ART UNIT

PAPER NUMBER

3743

DATE MAILED: 05/22/2002

Please find below and/or attached an Office communication concerning this application or proceeding.



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EXAMINER

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This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

☒ Responsive to communication(s) filed on 3/4/02

☐ This action is FINAL.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-24 is/are pending in the application.

Of the above, claim(s) 3, 12 and 14-24 is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-2, 4-11 and 13 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of Reference Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 5

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

- SEE OFFICE ACTION ON THE FOLLOWING PAGES -

Art Unit:

Response to Election

Applicant's election of species J as illustrated in Figure 13 in Paper No. 7 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claims 3, 12 and 14-24 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made without traverse in Paper No. 7. The elected species does not disclose the limitations of claim 14 and 19.

Claim Rejections - 35 USC § 112

Claims 1-2 and 4-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claim 1, the recitations "the innermost one" and "the innermost end" lack antecedence.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit:

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Claims 1-2, 4-11 and 13 are rejected under 35 U.S.C. § 103 as being unpatentable over Sugimoto et al. ('518) in view of Nishishita et al. ('368). The patent of Sugimoto et al. ('518) discloses all the claimed features of the invention with the exception of the flat part having a third louver

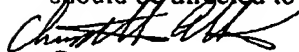
The patent of Nishishita et al. ('368) discloses that it is known to have a louver(s) (51,52) in the flat part of the fin for the purpose of increasing the fins' flat part strength and obstructing heat transfer. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to employ in Sugimoto et al. ('518) a louver(s) in the flat part of the fin for the purpose of increasing the fins' flat part strength and obstructing heat transfer as disclosed in Nishishita et al. ('368). It would have been an obvious matter of design choice to have the claimed spacing distance and tube widths since such modifications would have involved a mere change in the relationship of the parts which does not solve any stated problem or produce any new and/or unexpected result.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Art Unit:

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Atkinson whose telephone number is (703) 308-2603.



C.A.

CHRISTOPHER ATKINSON
PRIMARY EXAMINER

May 20, 2002